FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 28, 2000

John J. White, Jr., Esq.
Livengood, Carter, Tjossem,
Fitzgerald and Alskog, LLP
620 Kirkland Way, Suite 200
P.O. Box 908
Kirkland, WA 98083-0908

RE: MUR 4693, 4737 and 4868
Washington State Republican Party--
Federal Account and Al Symington,
as treasurer
Washington State Republican Party

Dear Mr. White:

On January 18, 2000, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 441a(f) and 441b(a) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i), provisions of the Federal Election Campaign Act of 1971, as amended, and the Commission's regulations. Accordingly, the files have been closed in these matters. Please be advised that the civil penalty in this agreement reflects unusual factors brought forth during the investigation.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and these matters are now public. In addition, although the complete files must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible While the files may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that next installment of the civil penalty is due by February 1, 2000. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Ruth Heilizer,
Attorney

Enclosure: Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MURs 4693, 4737
Washington State Republican Party—	)	and 4868
Federal Account	)	
and Al Symington, as treasurer	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by the Washington State Democratic Central Committee and Paul Berendt, the Chair. The Federal Election Commission ("Commission") found probable cause to believe that the Washington State Republican Party—Federal Account, and Al Symington, as treasurer ("Respondents") violated 2 U.S.C. §§ 441a(f) and 441b(a) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i).

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Washington State Republican Party—Federal Account is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Al Symington is the treasurer of the respondent committee.

3. The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits the making or knowing acceptance of corporate or labor organization contributions or expenditures in connection with a federal election. 2 U.S.C. § 441b(a). For purposes of this section, the Act defines "contribution" or "expenditure" to include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate committee, or political party in connection with any [federal] election. 2 U.S.C. § 441b(b)(2); 11 C.F.R. § 114.1(a)(1).

4. The Act provides that no person or multicandidate committee ("PAC") shall make contributions to a state or local party committee's federal account in any calendar year which in the aggregate exceed $5,000, and prohibits the state or local committee from knowingly accepting such contributions. 2 U.S.C. § 441a(a) and (f). See also 11 C.F.R. § 110.3(b)(3).

5. When a committee such as the Washington State Republicans has established both a federal and a non-federal account, "only funds subject to the limitations and prohibitions of the Act shall be deposited in such separate Federal account." 11 C.F.R. § 102.5(a)(1)(i). Except for the limited circumstances provided in 11 C.F.R. §§ 106.5(g) and 106.6(e), no transfers may be made to a federal account from any other accounts maintained by the committee for the purpose of financing non-federal election activity. Id.

6. A state party committee that has established separate federal and non-federal accounts must pay the entire amount of an allocable expense from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of the allocable expense. 11 C.F.R. § 106.5(g)(1)(i).

7. For each transfer of funds from a committee's non-federal account to its federal account, the committee must itemize in its reports the allocable activities for which the transferred funds are intended to pay, as required by 11 C.F.R. § 104.10(b)(3) and 11 C.F.R. § 106.5(g)(2)(ii)(A).

8. Funds transferred from a committee's non-federal account to its federal account may not be transferred more than 10 days before or more than 60 days after the payments are made for which the transferred funds are designated. 11 C.F.R. § 106.5(g)(2)(ii)(B).

9. If the requirements of 11 C.F.R. § 106.5(g)(2)(ii)(A) and (B) are not met, any portion of a transfer from a committee's non-federal account to its federal account shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act. 11 C.F.R. § 106.5(g)(2)(iii).

10. Under Washington State law, "exempt" contributions, which are required to be used for voter registration, absentee ballot information, get-out-the-vote campaigns, and the like, are exempt from state contribution limits. RCW § 42.17.640(14).

11. Respondents' amended 1996 30 Day Post-General Report, filed on April 8, 1997, disclosed that Respondents had overtransferred $285,316.22 from the state exempt account to the federal account.

12. Respondents' amended 1996 30 Day Post-General Report, filed on May 23, 1997, disclosed that Respondents had reimbursed its federal account from its state exempt account for 100% non-federal activity in the amount of $80,203.89.

13. Respondents' 1997 Year End Report, filed on January 31, 1998, disclosed a $248,000 debt owed to the state exempt account. Respondents' letter to the Commission,

dated April 24, 1998, acknowledged that the $248,000 represented an additional overtransfer from the non-federal account to the federal account.

14. Based on the figures noted above, Respondents accepted $613,520.11 into the federal account from the state exempt account in excess of the allocable non-federal amount for shared political activity.

15. Respondents have transferred back $613,520.11 to the state exempt activities account from the federal account.

16. Given Washington State law governing campaign contribution, the non-federal account transfers to the federal account may have contained funds prohibited in connection with federal elections. 2 U.S.C. §§ 441a(f) and 441b(a).

17. Respondents contend that, with respect to the 1996 overtransfers, their accounting system, which had functioned well for eighteen years, broke down as the result of a change in state campaign finance law and an unprecedented number of contributions.

18. Respondents contend that the 1997 excess transfers occurred, in part, as the result of their use of a semiannual reporting system, and from a one-time, non-fundraising event for the benefit of party members. Respondents did not reconcile their accounts in a timely manner, and were unable to take timely corrective action when the excess transfer was discovered. Respondents have revised their reporting practices to a monthly basis to avoid a recurrence of the problem.

V. 1. Respondents received funds improperly transferred from a non-federal account in violation of 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i).

2. Respondents accepted excessive non-federal transfers containing excessive individual and PAC contributions in violation of 2 U.S.C. § 441a(f).

3. Respondents accepted excessive transfers from non-federal accounts containing corporate contributions in violation of 2 U.S.C. § 441b(a).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Eighty Thousand Dollars ($80,000) pursuant to 2 U.S.C. § 437g(a)(5)(A), such penalty to be paid as follows:

1. One initial payment of $4,000 payable upon submission by Respondents of the signed agreement.

2. An additional payment of $30,000 due on February 1, 2000.

3. Additional payments thereafter of at least $4,000 per month until the balance is paid in full.

4. In the event that any of the installment payments referenced in ¶ VI, § 3 is not received by the Commission by the fifth day of the month in which it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the respondents. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future overdue installments.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any

requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: _____ 1/27/00
Lois G. Lerner
Associate General Counsel
Date

FOR THE RESPONDENTS:

_____ 12/22/99
Exec. Director